

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**JUXTACOMM TECHNOLOGIES, INC.,**

**Plaintiff,**

**v.**

**ASCENTIAL SOFTWARE  
CORPORATION, et al.,**

**Defendants.**

**Civil Action No. 2:07-CV-359 LED**

**JOINT MOTION TO AMEND DOCKET CONTROL ORDER**

Pursuant to Rule (6)b of the Federal Rules of Civil Procedure, Plaintiff JuxtaComm Technologies, Inc. and Defendants Ascential Software Corporation, International Business Machines Corporation, and Microsoft Corporation request a modification of the Docket Control Order as follows:

| <b>Activity</b>   | <b>Current Deadline</b> | <b>Proposed New Deadline</b> |
|---|-------------------------|------------------------------|
| Joint Proposed Jury Instructions with citation to authority and Form of the Verdict for jury trials | September 17, 2009      | October 9, 2009              |

The parties agree that this proposed modification will not affect any other deadlines, is so that justice may be done, and is not for any improper purpose.

WHEREFORE, the parties respectfully request this Court enter the accompanying Agreed Order Setting forth the amendments to the Docket control Order and grant such other and further relief that is just and proper.

AKIN GUMP STRAUSS HAUER & FELD LLP

By: /s/ R. Laurence Macon

R. LAURENCE MACON  
State Bar No. 12787500  
lmacon@akingump.com  
KIRT S. O'NEILL  
State Bar No. 00788147  
koneill@akingump.com  
300 Convent Street, Suite 1600  
San Antonio, Texas 78205-3732  
Telephone: (210) 281-7000  
Fax: (210) 224-2035

STEVEN M. ZAGER  
State Bar No. 22241500  
1111 Louisiana Street, 44<sup>th</sup> Floor  
Houston, Texas 77002  
Telephone: (713) 220-5800  
Fax: (713) 236-0822

MICHAEL L. KIKLIS  
District of Columbia Bar No. 462690  
1333 New Hampshire Ave., N.W.  
Washington, DC 20036  
Telephone: (202) 887-4000  
Fax: (202) 887-4288

T. JOHN WARD, JR.  
WARD & SMITH LAW FIRM  
P.O. Box 1231  
Longview, Texas 75606-1231  
Telephone: (903) 757-6400  
Fax: (903) 757-2323  
jw@jwfir.com

Attorneys For Plaintiff  
JuxtaComm Technologies, Inc.

FITZPATRICK, CELLA, HARPER & SCINTO

By: /s/ James E. Marina

Donald J. Curry  
Marc J. Pensabene  
1290 Avenue of the Americas  
New York, NY 10104-3800  
(212) 218-2100

John M. Desmaris  
Robert A. Appleby  
James E. Marina  
KIRKLAND & ELLIS LLP  
153 East 53rd Street  
New York, New York 10022  
(212) 446-4800

Eric M. Albritton  
ALBRITTON LAW FIRM  
111 West Tyler Street  
P.O. Box 2649  
Longview, Texas 75606  
(903) 757-8449

Attorneys for Defendants Ascential Software Corp.,  
Cognos Corp., DataMirror, Inc. and International  
Business Machines Corp.

FISH & RICHARDSON P.C.

By: /s/ Kelly C. Hunsaker  
Ruffin C. Cordell  
Texas Bar No. 04820550  
(e-mail: cordell@fr.com)  
FISH & RICHARDSON P.C.  
1425 K Street, 11th Floor  
Washington, DC 20005  
Telephone: (202) 783-5070  
Facsimile: (202) 783-2331

Kelly C. Hunsaker (admitted pro hac vice)  
(e-mail: hunsaker@fr.com)  
FISH & RICHARDSON P.C.  
500 Arguello Street, Ste. 500  
Redwood City, CA 94063  
Telephone: (650) 839-5070  
Facsimile: (650) 839-5071

W. Chad Shear  
Texas State Bar No. 24013493  
(e-mail: shear@fr.com)  
P. Weston Musselman, Jr.  
Texas State Bar No. 14749600  
(e-mail: musselman@fr.com)  
FISH & RICHARDSON P.C.  
1717 Main Street, Suite 5000  
Dallas, TX 75201  
Telephone: (214) 747-5070  
Facsimile: (214) 747-2091

Eric H. Findlay  
Texas State Bar No. 00789886  
(e-mail: efindlay@findlaycraft.com)  
FINDLAY CRAFT, LLP  
6760 Old Jacksonville Highway, Suite 101  
Tyler Texas 75703  
Telephone: (903) 534-1100  
Facsimile: (903) 534-1137

Counsel for Defendant  
MICROSOFT CORPORATION

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on September 15, 2009, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

---

*/s/ Kelly C. Hunsaker*  
Kelly C. Hunsaker

50673392